

STATE OF COLORADO

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John W. Hickenlooper
Governor

D 2015-004

EXECUTIVE ORDER Conserving Greater Sage-Grouse Habitat

Pursuant to the authority vested in the Office of the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order directing further conservation measures for the greater sage-grouse.

I. Background and Purpose

The greater sage-grouse is a species of bird that relies on healthy sagebrush habitat for food and shelter. Approximately half of the greater sage-grouse habitat in Colorado is located on federal land managed by the Bureau of Land Management (BLM). The stewardship of this species has been a priority for landowners, wildlife managers, ranchers, conservation groups, and state and federal agencies in Colorado for over a decade. Together, these Colorado stakeholders have worked tirelessly, using the best available, site-specific science, to conserve and protect the greater sage-grouse population and its habitat.

The state's wildlife management agency, Colorado Parks and Wildlife (CPW), has exceptionally strong in-house research capabilities, and its biologists have played a critical role in developing and updating state-specific science regarding greater sage-grouse. Relying on that expertise, CPW has collected and analyzed Colorado-specific data to assess habitat quality, threats to habitat, and the impact of various changes in habitat on greater sage-grouse populations. In 2008, working with dozens of stakeholders from state and federal agencies, as well as private landowners and conservation groups, CPW biologists developed a comprehensive management plan (Conservation Plan) for the greater sage-grouse which was designed to increase the abundance and viability of the species and its habitat. Following feedback from the U.S. Fish and Wildlife Service (FWS), in 2013 CPW completed the "Colorado Package," a comprehensive update and status review to the Conservation Plan. The state updated the Conservation Plan once again in 2014 in its "Synthesis Report," providing additional information on the implementation and effects of conservation efforts. These conservation efforts have been designed to address the threats initially identified by CPW in its analyses of Colorado-specific data, and subsequently mirrored in the federal government's COT and NTT reports.

Additionally, Colorado's regulatory framework for energy development proactively engages our important oil and gas industry in helping to protect the greater sage-grouse and its habitat. The

Colorado Oil and Gas Conservation Commission's 1200-series rules (2 CCR 404-1:1200 *et seq.*) require consultation with CPW whenever an operator seeks to develop energy resources in sensitive wildlife habitat. Typically, where greater sage-grouse habitat has been implicated, these consultations lead to site visits and detailed, site-specific recommendations. An independent study of the consultation process showed that industry has complied with recommendations received from CPW 97% of the time when seeking to develop projects in sensitive wildlife habitats.

Concerted cooperation among agriculture producers and CPW has resulted in the "Ranching for Sage-grouse" program, which provides landowners with the best available science and management tools for grazing in habitat areas and protecting greater sage-grouse populations. The use of site-specific, adaptive management principles in ranching ensures that grazing continues to function in harmony with greater sage-grouse habitat attributes and is not considered a threat to the viability of the species. Local efforts to conserve the greater sage-grouse have also been robust, as detailed in the Colorado Package and the Synthesis Report. For example, local governments in northwest Colorado have reviewed their zoning regulations to better accommodate greater sage-grouse habitat conservation objectives.

The Colorado State Land Board (SLB) is another important stakeholder. With 164 grazing and multiple use leases in habitat areas, the SLB has management authority over 393,269 acres of greater sage-grouse habitat. The Colorado Constitution (Art. IX, Sec. 10) requires that SLB manage its lands to ensure sound stewardship, including protecting and enhancing open space and wildlife habitat. SLB includes strict terms and conditions in its grazing leases requiring the use of sound stewardship practices; requires inspections to ensure lessees are in compliance with lease terms; consults with CPW before it issues any new leases for oil and gas development on wildlife-sensitive lands; and limits surface occupancy as appropriate. Moreover, SLB's Stewardship Trust program designates lands with, among other things, critically important wildlife habitat values, and permits only uses on those lands that will protect and enhance the values for which they were identified for inclusion in the program. Currently, SLB is pursuing a detailed inventory of state trust lands located in greater sage-grouse habitat, and will apply site-specific adjustments to its management regime based on the results of the inventory.

The effectiveness of these broad-based conservation efforts is borne out by the data. Since 2003, CPW has protected over 80,600 acres of greater sage-grouse habitat through fee title purchase or conservation easement at a cost of approximately \$52.8 million. Additionally, the land trust community in Colorado has protected an additional 154,181 acres of private land in greater sage-grouse habitat areas through conservation easements, including some of the best greater sage-grouse habitat and largest leks in the state. CPW has completed four Wildlife Mitigation Plans covering a total of 57,697 acres in the Parachute-Piceance-Roan greater sage-grouse population, including avoidance measures and best management practices; and since 2005, CPW has expended more than \$9.2 million to conduct annual operations in support of greater sage-grouse conservation.

Despite our proactive and extensive range-wide conservation measures to protect greater sage-grouse, in 2010, FWS determined that the species was "warranted but precluded" for listing under the Endangered Species Act (ESA) throughout its entire 11-state range. FWS must determine by September

30, 2015 whether the greater sage-grouse still warrants protection under the ESA and if so, whether to propose an “endangered” or a “threatened” listing for the species.

We firmly believe that state-led efforts provide the most effective approach to protecting and conserving the species and its habitat. The listing of the greater sage-grouse under the ESA would have a significant and detrimental economic impact on the state. Given the limited resources available to the federal agencies charged with managing a federally listed species, the state is concerned that the health and vitality of the greater sage-grouse population may also decline as a result of a listing, setting back the conservation gains made to date under the Conservation Plan.

While Colorado’s actions to protect greater sage-grouse and their habitat have been extensive, we can do more to protect this treasured species and its unique ecosystem by ensuring implementation of effective conservation measures. Steps such as facilitating better coordination among state agencies, more detailed record keeping, a complete inventory of SLB lands, developing a tracking system for oil and gas development in habitat, reviewing the state’s 1200-series rules, and creating a market-driven habitat exchange program will further strengthen the protection of Colorado’s greater sage-grouse.

II. Declaration and Directives

- A. All state agencies whose operations affect the greater sage-grouse or its habitat are directed to coordinate implementation of their actions with CPW in order to avoid, minimize and/or mitigate adverse impacts, as articulated in Colorado's updated 2008 Conservation Plan.
- B. CPW is directed to maintain careful records of its consultations with state agencies and others as they relate to the conservation of the greater sage-grouse.
- C. State agencies, including CPW, are directed to respect the ownership rights of federal, local government and private land owners, throughout this process.
- D. The Colorado Department of Natural Resources (DNR) is directed to work with stakeholders to launch the Colorado Habitat Exchange (Exchange) by the end of 2015. This voluntary, market-driven program shall be made available to mitigate residual impacts of development on greater sage-grouse habitat after avoidance and minimization has occurred. The Exchange will generate quantifiable conservation outcomes that achieve scientifically defensible standards and conditions that benefit the greater sage-grouse. Specifically:
 - i. The Exchange shall be made available to public and private landowners who conduct voluntary conservation actions that contribute to a net conservation benefit for the greater sage-grouse;
 - ii. The Exchange shall be made available to land developers for use in meeting federal or state compensatory mitigation requirements for greater sage-grouse;

- iii. The Exchange shall be made available to state agencies that, in consultation with CPW, must mitigate residual impacts to greater sage-grouse; and
 - iv. Under the Colorado Oil and Gas Conservation Commission's 1200-series rules, the Exchange shall be made available to oil and gas operators who, through consultation with CPW, must meet compensatory mitigation requirements for greater sage-grouse.
- E. The Governor's Office will maintain a single point of contact for external interests on greater sage-grouse.
- F. SLB is completing its inventory of lands it manages in greater sage-grouse habitat by September, 2016. If lands are found to have unsuitable conditions due to improper grazing practices or ecosystem decline, SLB has agreed to, in consultation with CPW, apply adaptive management principles and adjust its management of those lands to improve the quality of habitat. SLB has committed that its adaptive management will take into account ecological, site-specific, rangeland conditions.
- G. The Colorado Oil and Gas Conservation Commission shall:
- i. use the full range of its management authority to foster adequate mitigation when avoidance and minimization measures are insufficient by themselves to offset impacts to greater sage-grouse; and
 - ii. work in close coordination with CPW, under the auspices of DNR, to develop a comprehensive tracking system for oil and gas development in sensitive habitat. This system will track the implementation of the 1200-series rules, including site-specific conservation actions recommended during consultation and the implementation of those recommendations by industry partners. Results from the tracking system will be reported annually to the DNR Executive Director.
- H. In coordination with the Governor's Office, DNR will conduct a thorough review of the 1200-series rules as well as any other relevant regulations to identify best management practices and opportunities for improved protection of wildlife habitat based on site-specific science. This review shall be completed by December, 2015.
- I. Agencies are required to report annually to the Governor's Office detailing actions to comply with this Executive Order.

III. Duration

This Executive Order shall remain in full force and effect until modified or rescinded by further Executive Order.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this fifteenth day of
May, 2015.

A handwritten signature in blue ink, which appears to read "John W. Hickenlooper". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John W. Hickenlooper
Governor